

DAVIDOFF HUTCHER & CITRON, LLP
Attorneys for *FEATHERSTONE FOODS, INC, SESAME
DISTRIBUTION INC and JOEL SCHONFELD*
605 Third Avenue
New York, New York 10158
(212) 557-7200

ROBERT L. RATTET

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FEATHERSTONE FOODS, INC, SESAME
DISTRIBUTION INC and JOEL SCHONFELD,

District Court Index Number -

Supreme Court – New York
County Index No. 652689/2020

Plaintiffs.

-against-

FEATHERSTONE DISTRIBUTION, LLC,

Defendant,

-----X

NOTICE OF REMOVAL

**TO THE HONORABLE DISTRICT COURT JUDGE
ASSIGNED TO THESE PROCEEDINGS:**

FEATHERSTONE FOODS, INC, SESAME DISTRIBUTION INC and JOEL SCHONFELD, Plaintiffs, by their attorneys Davidoff Hatcher & Citron LLP, respectfully provides notice to this Court of removal of the above-captioned special proceeding from the Supreme Court of the City of New York, County of New York (the “State Court”), to the United States District Court for the Southern District of New York, and respectfully represents as follows:

1. On June 24, 2020, Plaintiffs commenced an action (the “State Court Action”) against Featherstone Distribution, LLC, Defendant (“Defendant”). A copy of the Complaint is annexed hereto as Exhibit “1”.

2. Defendant has not filed an answer or dispositive motion.

3. The Complaint, Exhibit “1” constitutes the pleadings in this case. Any further documents will be provided to this Court or the United States Bankruptcy Court for the Eastern District of New York on request.

4. The State Court Action has been assigned Index Number 652689/2020 in the State Court.

5. On July 20, 2020 Defendant filed a voluntary Chapter 11 petition in the United States District Court for the Eastern District of New York, and was assigned Case No. 20-42673 (the “Featherstone Distribution Case”), and was continued in possession of its property and management of their affairs as debtors-in-possession pursuant to Sections 1107 and 1108 of the Code. The Featherstone Distribution Case was assigned to the Hon. Alan S. Trust.

6. Entities closely related to the of Defendant previously filed three other Chapter 11 cases as follows:

a) RM Bakery, LLC (“RMB”), filed a voluntary petition for reorganization on June

15, 2020 in the U.S. Bankruptcy Court, Southern District of New York, Case No. 20-11422 (mg) (the “RMB Case”). The RMB Case was assigned to the Honorable Martin Glenn;

- b) BKD Group LLC (“BKD Group”) filed a voluntary petition for reorganization on June 15, 2020 in the U.S. Bankruptcy Court, Southern District of New York, Case No. 20-11422 (mg) (the “BKD Group Case”). The BKD Group Case was assigned to the Honorable Martin Glenn; and
- c) Hunts Point Enterprises LLC f/k/a BKD Holdings, LLC (“Hunts Point”) filed a voluntary petition for reorganization on June 24, 2020 in the U.S. Bankruptcy Court, Eastern District of New York, Case No. 20-42393-cec (the “Hunts Point Case”). The Hunts Point Case was assigned to the Hon. Carla E. Craig and is being reassigned to the Hon. Alan S. Trust, the judge assigned to the Featherstone Distributions Case.

7. This Notice of Removal is being timely filed pursuant to Rule 9027 of the Federal Rules of Bankruptcy Procedure.

8. This action is a “core proceeding” within the meaning of 28 U.S.C §157(b)(2)(A), (B), (C), (L), (M) and (O) in that the action concerns (i) the disposition of property of the estate; (ii) determination of a claim of Plaintiff, who is a creditor, against the Debtor, as well as the parties’ relative rights under non-competition clauses in a certain Asset Purchase Agreement and Consulting Agreement.

9. Plaintiffs will seek to consolidate this action with an adversary proceeding pending in the U.S. Bankruptcy Court for the Eastern District of New York entitled Featherstone Distribution LLC v. Joel Schonfeld, Adv. Proc. No. 20-1088. This will promote judicial economy

and avoid confusion as well as inconsistent results. Towards that end, Plaintiffs will seek alternatively to transfer this proceeding to the U.S. District Court for the Eastern District of New York for ultimate transfer to the U.S. Bankruptcy Court for the Eastern District of New York, or to transfer the Hunts Point Case and the Featherstone Distribution Case to the United States Bankruptcy Court for the Southern District of New York. In that event Plaintiffs would seek to transfer this matter to the United States Bankruptcy Court for the Southern District of New York pursuant to the Amended Standing Order of Reference dated January 31, 2012, M-431, Hon Loretta Preska.

10. The filing of related debtors in the RMB Case, the BKD Case, the Hunts Point Case and the Featherstone Distribution Case in multiple districts has created serious complications as to the administration of these matters. In that connection, Plaintiffs wish to advise the Court that BKD has guaranteed Featherstone Distributions' obligations to Plaintiff. This buttresses Plaintiff's argument that these cases and this proceeding, as removed, should be administered by a single judge.

11. The Debtor intends, in the context of this removed action and likely other adversary proceedings, to promptly seek to determine the interests of various parties to the litigation.

13. This action, as removed to this Court and referred to the Bankruptcy Court, is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. Section 1334, and is one which may be removed to this Court by the Debtor pursuant to the provisions of 28 U.S.C. Section 1452, in that the matter in controversy is a civil action related to a bankruptcy case.

Dated: New York, New York
July 24, 2020

DAVIDOFF HUTCHER & CITRON, LLP
Attorneys for FEATHERSTONE FOODS, INC,
SESAME DISTRIBUTION INC and JOEL
SCHONFELD
605 Third Avenue
New York, New York 10158
(212) 557-7200

/s/ Robert L. Rattet

By: _____
ROBERT L. RATTET